

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

Criminal No. 03-10370-DPW - 01

UNITED STATES OF AMERICA )  
 )  
V. )  
 )  
 )  
DOUGLAS BANNERMAN )  
 )

MOTION FOR APPOINTMENT OF COUNSEL

NOW COMES, Douglas Bannerman through undersigned counsel and respectfully moves this Honorable Court for the entry of an order nunc pro tunc appointing James Michael Merberg, Esquire as his counsel, in the above captioned matter.

In support thereof counsel represents as follows:

1. The Defendant Douglas Bannerman was arrested and charged in a multi count multi defendant indictment, with conspiracy with intent to distribute and to distribute marijuana, and with criminal forfeiture.
2. Douglas Bannerman was originally represented by other counsel who was required to withdraw, based on a conflict.
3. James Michael Merberg filed his Notice of Appearance on behalf of the Defendant Douglas Bannerman on December 9, 2003.
4. James Michael Merberg has practiced criminal law before the United States District Court for the District of Massachusetts since 1971.

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5. James Michael Merberg is a member in good standing of the Supreme Judicial Court of the Commonwealth of Massachusetts, and is a member of the United States District Court the District of Massachusetts, the United States Court of Appeals for the 1<sup>st</sup>, 2<sup>nd</sup>, 3<sup>rd</sup>, 7<sup>th</sup>, 8<sup>th</sup>, 9<sup>th</sup>, 10<sup>th</sup> and 11<sup>th</sup> Circuit Courts of Appeal, and the Supreme Court of the United States.

6. Prior to the entry of James Michael Merberg's Notice of Appearance arrangements had been to transfer to James Michael Merberg's Client's Fund Account the sum of \$165,000.00 (which funds were in the possession of Bannerman's prior counsel).

7. Based on certain information and after several conversations initiated by James Michael Merberg with Assistant United States Attorney Rachel Hershfang, James Michael Merberg agreed to maintain the \$165,000.00 in his client's fund account, pending further discussions with the Office of the United States Attorney.

8. On August 26, 2004, the Office of the United States Attorney sought and obtained an Ex Parte Seizure Warrant to seize the funds held in James Michael Merberg's Client's Fund Account.

9. The Government's seizure of the funds held in James Michael Merberg Client's Fund Account, has resulted in undersigned counsel having received no compensation for the substantial amount of work performed and legal services provided to Douglas Bannerman between December 9, 2003 and the present date.

10. Counsel has been informed by the Defendant, because his bank accounts and other assets have been seized (including his real property at 23 Pilgrim By Way, Duxbury, MA, which is the subject of a criminal forfeiture allegation in the superceding indictment), that he is without funds with which to retain counsel.

11. James Michael Merberg is unwilling to continue represent the Defendant Douglas Bannerman without compensation.

WHEREFORE, the Defendant through undersigned counsel respectfully moves this Honorable Court for the entry of an order appointing James Michael Merberg nunc pro tunc as counsel for the Defendant Bannerman as of December 9, 2003.

Respectfully submitted,  
Douglas Bannerman  
by his attorney,

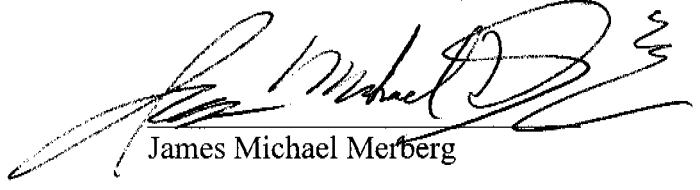


James Michael Merberg, Esquire  
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Boston, MA 02128  
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**CERTIFICATE OF SERVICE**

I, James Michael Merberg certify that I have this 3<sup>rd</sup> day of December 2004 served a copy of the foregoing Motion for Appointment of Counsel by hand delivery to Assistant United States Attorney Rachel E. Hershfang, c/o the Office of the United States Attorney for the District of Massachusetts, United States District Courthouse, 1 Courthouse Way, Suite 9200, Boston, MA 02210

Dated: December 3, 2004



James Michael Merberg